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"The Gold of that Land is good."

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U. S. DISTRICT COURT.

JUDGE HOWELL'S CHARGE TO THE GRAND JURY OF THE FIRST JUDICIAL DISTRICT, AT TUCSON, MAY TERM, A. D. 1864.

GENTLEMEN OF THE GRAND JURY:—You are the first grand inquest ever duly empanelled and sworn by authority of law, in this Territory. With your action to-day, commences the judicial history of a country whose area is sufficiently extensive to form the seat of a powerful empire. From its great extent, its unlimited wealth, and central position, the eyes of the whole Union are naturally turned to the administration of its civil policy, to ascertain whether there exists sufficient intelligence and public virtue in its people to give efficacy to its laws, and security to life, liberty and property.

I need hardly remind you, gentlemen, that the responsibility resting upon you is one of very great and grave consideration. Its magnitude, considered with reference to the future weal or woe of the people of this Territory, has not been exceeded by any grand jury ever assembled. Upon the prompt, honest, faithful and impartial discharge of that duty, measurably rests the future judicial history of this Territory.

Emerging as we are, from a chaotic state, where no system of civil jurisprudence prescribed by the supreme power has ever been enforced, a brief consideration of our duties, rights and privileges may not be considered as inappropriate or improper. Although not required by statute to call your attention to each particular violation of the criminal law, yet to some, which I am advised may come before you for your consideration and action, I deem it proper to call your attention—and first, Murder. Murder is defined as "the act of unlawfully killing a human being with premeditated malice, by a person of sound mind. To constitute murder in law, the person killing another must be of sound mind, or in possession of his reason, and the act must be done with malice prepense, aforethought or premeditated; but malice may be implied, as well as express."

If therefore you find by competent proof that a human being has been unlawfully killed by another, within the jurisdiction of your inquiries, which is co-extensive with the limits of the judicial district, and that the person committing the offence is identified, it will be your duty, by proper indictment to present such person for trial. You are to hear and consider only the evidence on the part of the prosecution, except in extraordinary cases provided by statute. All matters of justification or excuse are to be heard and determined before the trial jury, where in accordance with our laws and public policy, all proceedings are open and public, to the end that the people may be educated in the forms and proceedings against persons accused of crime, and the reasons that shall conduce to their conviction or acquittal. Our former history presents a painful record in this regard. Homicides, without cause or justification have been frequent; and it is only by prompt and efficient action and condign punishment that security to life can obtain.

Next, I call your attention to the offense of gambling. A statute of New Mexico, in force here, makes the offense, one for your consideration, and to its provisions, I earnestly invoke your attention, as well as your prompt action for any violation. The evils which flow from this vice, permeate every vein and artery of society, and contaminate and poison the whole social system. They beget a contempt for the wholesome restraints of the civil law, and substitute in its place a false "code of honor" which resolves man into his original elements, and punishes and protects by mere physical force, agreeably to the dictates of a vitiated mind, and an interest made potent by the most selfish and dishonest means. It is the high school of crime, from which, could a secret history be traced, emanates a majority of the homicides, robberies and the higher crimes against which the people are obliged to

seek protection. It impairs the law-abiding spirit of the people, and destroys that reliable conservative element to which the government should look with confidence for protection and support in the hour of its peril and its danger. Nor does the evil stop here. It demoralizes and debases the youth of the land, and unfits them for places of public trust or private confidence. It is a patent historical fact, that any community or government that has either licensed or tolerated gambling, has been subjected to the evils of unlawful assemblies raised for the ostensible purpose of eradicating or counteracting the evils produced by its toleration, and who, under the impulse of excitement, and acting beyond the control of law, frequently commit outrages as grievous as those of which they complain. The cure, for all this, is a wholesome, fair, honest and impartial administration of the laws as they exist.

Under the constitutional guarantee of the "right of every citizen to keep and bear arms in defence of himself and the government," an evil has arisen to which I invite your especial attention—while that constitutional guarantee must be observed; the abuse of that right is liable to prosecution and punishment. If, for instance, the "arms" are used for the purpose of making an assault, with the intent to inflict upon the person of another a bodily injury, within a distance which such arms will carry, or to put him in fear, or to compel him by fear or threats to obey an unlawful order or command, where no considerable provocation appears, or where the circumstances of the assault show an abandoned and malignant heart, then, in any such case, the offender is liable to indictment and punishment. The privilege is given him alone for protection; not for infringement upon the rights of others.

The person who deliberately violates the law of the land, as deliberately throws himself without the protecting pale of its influence, and by the act itself, voluntarily announces his hostility to law and social order. Any indulgence to such person engenders disrespect and distrust for the judicial tribunals of the country, and is a direct violation of the rights of those who do not offend.

In your deliberations, allow me to suggest the faithful observance of one great leading principle, which is, to administer the laws as we find them enacted by competent authority. Any deviation from this principle is fraught with danger. In its adherence, you announce the peaceful rule of the law, and proclaim to the world, that henceforth, the Revolver and Bowie Knife shall cease to be the arbiters of differences between individuals, or the avengers of the baser passions of men. One other principle of equal importance is, that our individual opinions of the policy or provisions of a law, should not be allowed to obtain in its administration.

If we refuse to execute a law, because its provisions are not in accordance with our private views, we are recreant to the trusts confided to us, and guilty of perjury upon our official oaths. We substitute individual opinion for the combined wisdom of the law making power, and thus deliberately ignore the cardinal principle that "the majority should rule," and which forms the basis of all free institutions.

In the present unhappy condition of our country, we have hitherto been subjected to military rule, or "martial law." This has ceased; and if a question arising under this state of public affairs is brought before you for consideration, the dividing line of powers between the civil and military authorities is easily defined. The civil have no military powers, and the military no civil powers, except what are given by express law. Nothing can be taken by implication; and if either attempt to assume the functions or discharge the duties of the other, and a wrong ensues, that wrong is without excuse, and the perpetrator is amenable to the law for its violation. Nothing should be more assiduously guarded than oppression under color of official or legal authority. Under such circumstances it becomes the more flagrant, because of the assumed protection which such authority would give it.

"That government is the best administered that considers an insult to its meanest subject, an insult to its whole people;" and in the administration of the criminal law, it should be our constant endeavor so to demean ourselves, that the poor, the weak, and the timid, equally with the rich and the powerful, should regard our courts of justice as a shield against wrongs, and a defender of their lawful rights. Your investigations and deliberations are to be in secret. No person should be permitted to be present except the witness under examination, and the Attorney General as your assistant and legal adviser; and upon the decision of a question, no one should be present except your own body.

If any person approaches you and attempts any conversation or inquiry as to the matters you have in charge, it will be your duty, and an act of criminal negligence if you fail to discharge it, to present the name of such person to the Court for punishment.

I am not aware, gentlemen, of anything more I can say that will more plainly indicate the line of your duty than the simple, plain and comprehensive language of the oath you have taken that you "shall diligently inquire, and true presentment make, of all public offences against the people of the United States or this Territory committed or triable within this judicial district, of which you shall have or obtain legal evidence; you shall present no person through malice, hatred or ill-will; nor have any unpresented through fear, favor or affection, or for any reward, or the promise or hope thereof; but in all your presentments or indictments, you shall present the truth, the whole truth, and nothing but the truth, according to the best of your skill and understanding—So help you God."

No true test of the standard of public morals can be attained; and nothing is more conducive to the public good, than the conscientious observance of the solemn obligations of an oath, taken by the officers of justice. It dispels all doubts, allays all anxieties, and inspires public confidence in the purity of our institutions.

In cases when you have not the power to present by indictment for trial, you have the right to present in the form of a public complaint, such matters as are injurious to the public,—repugnant to public policy,—demoralizing in their influences upon society, or obstruct the due administration of civil government.

MUNICIPAL CONVENTION.

HELD AT TUCSON, MAY 8, 1864.

At a meeting of the Citizens of the town of Tucson, Territory of Arizona, held May 8th, 1864, for the purpose of organizing a temporary municipal government.

On motion of W. S. Oury, Esq., General W. Claude Jones was called to the chair.

On motion of W. S. Oury, Esq., Mr. Gregory P. Harte was nominated Secretary of the meeting.

The object of the meeting being explained by the President, the Secretary was called upon to read the following resolutions, formed for the adoption of the meeting.

RESOLVED, That the citizens of the municipality of Tucson, in the absence of any law enabling them to form a city or town government adapted to their wants, do hereby temporarily, and until the necessary legislative action can be had, establish the following provisional government:

1st. The officers of said municipality shall consist of a Mayor and five councilmen.

2d. The Mayor shall have the general powers conferred on such officers by city charters. All laws and regulations made by the majority vote of the council shall first be submitted to him for his approval; and when signed by him shall be binding and obligatory upon all citizens. It shall be his duty to see that all police and sanitary regulations are observed. That all laws are enforced, and that peace and good order is preserved. All taxes assessed upon the citizens shall be paid to him; and he shall, from the funds in his hands, pay such bills against the municipality as may have been justly incurred and have been audited by the council.

3d. It shall be the duty of the council, and they shall have the power to elect from their number a President, and to appoint a Clerk; and with the concurrence of the Mayor to make all needful sanitary and police regulations, and establish such ordinances as they may think necessary to preserve the peace and secure good government, and advance the permanent prosperity of Tucson. They shall request the Judge of Probate, for this district, to take the necessary steps to pre-empt, under the United States laws, approved May 28th, 1844, three hundred and twenty acres of land, outside of the Pueblo Grant of Tucson; and they shall have the power, with the approval of the Mayor, to lay off the same, and all other lands of the municipality, into lots; to make and take reservations for public buildings, and to determine the price, manner and conditions on which said lots shall be sold. They shall have the right, subject to the approval of the Mayor, to lay out, locate, and straighten all streets, roads and ways, that the convenience, necessity and interests of the citizens may require, and estimate all damages therefor; Pro-

vided, no property of a citizen shall be taken for public uses without his consent, and no tax levied beyond what may be necessary to pay for surveying off the town limits and blocking its vacant lots. And they shall assess upon the polls and estate of all property-owners, or residents, in Tucson, their proportion of a tax sufficient to pay all such indebtedness as may be incurred in their behalf by the Mayor and councilmen, in accordance with these provisions, and shall audit all bills against the municipality.

RESOLVED, That the Mayor and councilmen make a report to the next Legislature, of their acts and doings under these resolutions, and request to have them confirmed, and that a city charter with proper provisions, be granted to the town of Tucson.

RESOLVED, That the Governor be requested to appoint a Mayor and five councilmen, and that they hold their office until a government is established by legislative enactment.

The undersigned agree to conform to all matters contained in these resolutions, and to respect and assist the officers appointed under the same, and to pay to the Mayor, upon notice, all taxes assessed by said officers against them or their property. Signed:

Wm. S. Oury,	S. Warner,
Jeremiah Riordan,	S. B. Wise,
M. B. Duffield,	Fritz Contzen,
James G. Douglas,	C. H. Meyers,
H. McWard,	H. S. Stevens,
J. G. Capron,	John B. Allen,
Hill De Armit,	M. Aldrich.

The resolutions were then placed before the meeting for action, and were adopted without discussion.

It being moved and seconded that the proceedings and resolutions of this meeting be copied by the Secretary and presented to the Governor, for his approbation and action, it was unanimously carried.

There being no further business, the meeting adjourned.

W. CLAUDE JONES, President.

GREGORY P. HARTE, Secretary.

MEETING OF COLORADIANS.

At a meeting of emigrants from Colorado held at Fort Whipple, Arizona Territory, May 28th, 1864, the Hon Joel Woods was called to the chair, and W. C. Hutton appointed Secretary.

On Motion, the chair appointed the following named gentlemen to draft resolutions: Judge Piatt, R. Short, A. H. Sammers, O. L. Ferguson and Samuel McMartin.

The Committee Reported the following, which were adopted:

WHEREAS, we citizens and miners from Colorado Territory, having Provisionally fallen in at Fort Wingate, N. M., with a government escort of the 1st Regiment California Cavalry commanded by Lt. E. C. Baldwin, after traveling from that Post to Fort Whipple deem it incumbent upon us to express our feelings; therefore,

RESOLVED, That we tender to Lt. Baldwin for his many kindnesses and his gentlemanly deportment, towards us on all occasions during our trip, our most hearty and sincere acknowledgements.

RESOLVED, That the conduct of Lt. Baldwin and the men under his command has been such as to warrant us in commending them to the world as soldiers worthy of the name, and particularly of the confidence of their superiors.

RESOLVED, That our memories shall often recur with pleasing recollections to our sojourn together.

RESOLVED, That the proceedings of this meeting be signed by the President and Secretary and a copy be presented to Lt. Baldwin, and one to the Company—also that the Editor of the ARIZONA MINER be requested to publish the same.

On motion the meeting adjourned.

JOEL WOODS, Chairman.

W. C. HUTTON, Secretary.

THE IDLER.—Everything within us and about us shows that it never was intended that man should be idle. Our own health and comfort, and the welfare and happiness of those around us, all require that man should labor. Mind, body, soul, all alike suffer and rust by idleness. The idler is a source of mental and moral poison to everybody around. He is a nuisance to the world, and needs abatement for the public good like any other source of pestilence.